



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - public distribution

Date: 7/19/2004

GAIN Report Number: HK4017

Hong Kong

Food and Agricultural Import Regulations and Standards

FAIRS Update: To regulate health claims of orally consumed products

2004

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Report Highlights:

An Amendment Bill was introduced to the Legislative Council to provide legislative backing to prohibit/restrict selected undesirable claims for orally consumed products. The Council now vets the Bill. There is no timetable set as to when the Bill will be passed. The Hong Kong government is considering providing a grace period of at least 18 months for the industry to comply with the new requirements, upon enactment of the Bill. In the future, U.S. exporters may need to change their product labels if they carry health claims regulated by the Amendment Bill.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Hong Kong [HK1]
[HK]

Summary

The Hong Kong government has introduced the Undesirable Medical Advertisement (Amendment) Bill to the Legislative Council for deliberations with a view to prohibiting or restricting the advertising of six types of health claims for orally consumed products.

Advertising of claims is prohibited for the following:

- prevention, elimination or treatment of breast lumps;
- regulation of the function of the genitourinary system; and
- regulation of the endocrine system.

Advertising of claims is restrictive for the following:

- regulation of body sugar or glucose and/or alteration of the function of the pancreas,
- regulation of blood pressure; and
- regulation of blood lipid or cholesterol.

Restricted advertising means that advertising for health claims is allowed provided that the product carries a disclaimer saying that the product is not registered in Hong Kong as a western or Chinese medicine.

Background

Currently, pharmaceutical products are subject to the Pharmacy and Poisons Ordinance (PPO) while Chinese Medicine are subject to the Chinese Medicine Ordinance (CMO). For general food products, the Public Health and Municipal Services Ordinance requires manufacturers and sellers to ensure their products are fit for human consumption. Furthermore, the Undesirable Medical Advertisements Ordinance prohibits advertisements claiming that a product has curative or preventive effects on any of the diseases listed in the schedule to the Ordinance. The existing regulatory framework, however, does not cover health foods with health claims.

There has been an increasing number of food products claiming beneficial health effects in Hong Kong in recent years. These products are generally described as “health food”, which has no definition in Hong Kong food regulations. However, they are not classified as medicines and are therefore not subject to the regulation of PPO and CMO. The Hong Kong government intends to introduce legislative backing to strengthen control over health claims of these products for public interests. To this end, the government proposed to amend the Undesirable Medical Advertisement Ordinance for the purpose of regulating health claims of orally consumed products.

The Amendment Bill

After a public consultation exercise, the Hong Kong government introduced the Amendment Bill to the Legislative Council for deliberations in early 2004. The essence of the amendment is to widen the scope of the original Ordinance so as to regulate the advertising of six types of undesirable claims for orally consumed products. The advertisements of the following three types of claims for orally consumed products will be prohibited.

- 1 Prevention, elimination or treatment of breast lumps;
- 2 Regulation of the function of the genitourinary system and/or improvement of symptoms of genitourinary problems; and

- 3 Regulation of the endocrine system and/or maintenance or alteration of hormonal secretions.

With the following three types of claims, advertisements may be allowed if a specified disclaimer is added onto the packaging and in the advertisement of the orally consumed product, i.e.

- 1 Regulation of body sugar or glucose and/or alteration of the function of the pancreas;
- 2 Regulation of blood pressure; and
- 3 Regulation of blood lipids or cholesterol.

According to the proposal, if both the product label and the advertisement are entirely in the English or Chinese language, then any claim or disclaimer may be limited to that language.

With the Amendment Bill, the Hong Kong government intends to regulate claims for health food products such as medicines, shark's cartilage capsules and fish oil capsules and not conventional food such as cereals, cooking oil, fruit and vegetables. Therefore, the Amendment Bill will only regulate orally consumed products and orally consumed products will be defined in such a way that a product which is customarily consumed only as food or drink to provide energy, nourishment or hydration, or to satisfy a desire for taste, texture or flavor, will not be subject to regulation.

Timetable

The Amendment Bill has just been introduced to the Legislative Council. Given the potential impact on the trade, a bill committee has been set up to scrutinize the amendment. The Hong Kong government has not set any timetable for the enactment of the Bill. According to the proposal, the "health food" industry would be given a grace period of at least 18 months to enable them to make changes and preparation in order to comply with the new requirements.

Conclusion

The medical professional bodies, academics, and consumer groups are supportive of the proposal, while the trade has reservations over the proposal on the grounds that the industry has to bear the cost for changing the labels and consumers may have less choice if overseas exporters opt to give up the Hong Kong market as a result of the labeling burden.

U.S. products may carry function/structural claims or health claims on their labels. Some of these claims may fall within the scope of the restricted advertising covered by the Amendment Bill in Hong Kong. The U.S. Food and Drug Administration has a list of approved health claims, for instance, cholesterol and risk of coronary heart disease; potassium and the risk of high blood pressure; sodium and hypertension, etc. Such health claims will be subject to regulation in Hong Kong according to the Amendment Bill. As such, U.S. exporters may need to modify their health claims label on products intended for the Hong Kong market, upon the enactment of the Amendment Bill. The impact on U.S. exports to Hong Kong depends on the future definition of "orally consumed product" and whether the final version of the Amendment Bill will regulate all the six types of health claims as initially proposed.

For details of the Amendment Bill, please refer to the following website:
<http://legco.gov.hk/yr03-04/english/bills/b38.pdf>.